REMARKS

Claims 5 and 6 have been amended. Claim 8 has been added. No new matter has been added. Claims 1-8 remain in the application. Reconsideration and reexamination is respectfully requested.

In the paper dated 08/11/2004, claim 7 was rejected under nonstatutory double patenting over claim 1 of U.S. Patent Number 6,631,108. Applicant traverses.

First, from MPEP 804, the primary purpose of nonstatutory double patenting rejection is to prevent an unjust extension of the patent term. That is irrelevant to the present situation where the application is a continuation of the patent. The present application has the same effective filing date as the parent, and if the application results in a patent, the term will end on the same day as the term of the parent. A terminal disclaimer would have no practical effect.

Second, from MPEP 804 II.B.1(a), the examiner must show why any differences in the claims are obvious. In the office action, the examiner omitted the differences, and failed to make any argument as to why the differences are obvious. In particular, the examiner has provided no argument as to why broader claim 1 of the present application is obvious in light of narrower claim 1 of 6.631,108. Claim 1 of 6,631,108 specifies that at a particular write timing the first and second read error rates are expected to be non-zero and equal, and for any write timing other than the particular write timing, the first and second read error rates are expected to be unequal. The examiner has provided no argument as to why the broader claim 7 of the present application is obvious in light of removal of the specific restrictions on error rates.

In the paper dated 08/11/2004, claims 1-7 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent Number 6,031,800 (Narumi *et al.*). Applicant traverses.

The last element of claim 1 specifies reading a data set and adjusting the write timing based on comparing the read error rate of the data set and a characterized read error rate as a function of write timing. Narumi *et al.* do not teach or suggest a comparison of an error rate of a data set to a characterized read error rate as a function of write timing, and there is no teaching or suggestion of adjusting write timing based on a comparison.

The examiner cites Narumi *et al.*, figure 4, and column 8, lines 23-25 and 49-52, as teaching "adjusting the write timing based on the read error rate of the data set and the characterized read error rate as a function of write timing". That is not what is claimed in claim 1. In the last element of claim 1, the read error rate of the data set is compared to a characterized read error rate as a function of write timing. In the examiner's characterization of the teaching of Narumi *et al.*, there is no argument that Narumi *et al.* compares the read error rate of a data set to a characterized read error rate as a function of write timing.

In Narumi *et al*, figure 4 is a circuit for varying write start times. Column 8, lines 23-25 state that there is a relationship between error rate and a range of variation of write start times. Column 8, lines 49-52 state that the error rate when the variation of write times is below a specific range of variation of write times. Neither cite teaches or suggest comparing the error rate of a data set to a characterized read error rate as a function of write timing. Neither cite teaches or suggests adjusting a write time based on comparing the error rate of a data set to a characterized read error rate as a function of write timing.

Claims 5 and 6 have been amended to specify that the spatial features are arranged in accordance with the data set. Support for the amendments may be found at page 15, lines 15-17. Narumi *et al.* do not teach or suggest spatial features that are arranged in accordance with the data set.

The last two elements of claim 7 specify comparing the first and second error rates and adjusting the write timing based on the comparison of the first and second error rates. Applicant's remarks above in conjunction with claim 1 regarding comparison apply equally to claim 7.

In addition, claim 7 specifies first and second data sets. Narumi *et al.* do not teach or suggest first and second data sets.

The examiner cites Narumi *et al.*, column 6, lines 19-25 for first and second data sets. The cited lines have nothing to do with data sets.

Support for new claim 8 may be found in figure 7 and the discussion of figure 7. Narumi *et al.* do not teach or suggest spatial features that are arranged in accordance with the data set, and do not teach or suggest determining a write timing error.

Respectfully submitted,

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